

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RICHARD MARTIN,

Plaintiff,

v.

JOBO'S, INC., d/b/a BJ ROOSTERS,
ROBERT HAMILL and
JOHN MOLINARI,

Defendants.

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CIVIL ACTION FILE

NO.: 1:13-cv-4242-RLV

ANSWER

Defendants, JOBO's Inc., Robert Hamill, and John Molinari
answer the Complaint as follows:

FIRST DEFENSE

Defendants answer the allegations in the Complaint as follows:

1. Defendants deny paragraph 1.

2. Defendants deny paragraph 2 and further state that at no
time did Plaintiff work more than 40 hours a week.

3. As to paragraph 3, Defendants admit that this action is
brought under the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, et

seq. but deny that they have violated the FLSA. All other allegations contained in paragraph 3 are denied.

4. As to paragraph 4, Defendants admit that this Court has subject matter jurisdiction but deny that it has jurisdiction pursuant to 42 U.S.C. 201 et seq.

5. As to paragraph 5, Defendants admit that this Court has personal jurisdiction but deny that they engaged in wrongful acts.

6. As to paragraph 6, Defendants admit that this court has venue but deny that they engaged in wrongful acts.

7. Defendants admit in part and deny in part paragraph 7. Defendants admit that they employed Plaintiff as a bartender. Defendants deny the remaining allegations.

8. Defendants state that Jobo, LLC and not Jobo, Inc. is the proper party to this action. All other allegations in paragraph 8 are denied.

9. Defendants deny paragraph 9.

10. Defendants admit in part and deny in part paragraph 10. Defendants admit that Jobo, LLC runs a club that sells alcohol and food

and provides entertainment, and that they do business in Georgia.

Defendants deny all other allegations.

11. Defendants admit in part and deny in part paragraph 11.

Defendants admit that Jobo, LLC is an enterprise engaged in commerce and have revenues in excess of \$500,000 a year, and that Plaintiff is not exempt under 29 U.S.C. 213(a)(1). All other allegations are denied.

12. Defendants admit in part and deny in part paragraph 12.

Jobo, LLC has exercised control over the employment of the Plaintiff and treated Plaintiff as an employee. Jobo, LLC also admits paragraph 12(1) and (6). All other allegations are denied.

13. Defendants deny paragraph 13.

14. Defendants incorporate their responses to paragraphs 1 -13 herein.

15. Defendants deny paragraph 15.

16. Defendants deny paragraph 16.

17. Defendants deny paragraph 17.

18. Defendants deny paragraph 18.

19. Defendants deny paragraph 19.

20. Defendants deny paragraph 20.

21. Defendants deny paragraph 21.

22. Defendants incorporate their responses to paragraphs 1 -21 herein.

23. Defendants admit that 29 U.S.C. 207 requires employees to be compensated at one and one half times his regular rate for hours worked over 40 but deny that Plaintiff ever worked over 40 hours in any week.

24. Defendants deny paragraph 24.

25. Defendants deny paragraph 25.

26. Defendants deny paragraph 26.

27. Defendants deny that Plaintiff is entitled to any relief whatsoever.

28. All allegations not admitted are denied.

29. To the extent any answer is required to Plaintiff's prayer for relief Defendants deny that Plaintiff is entitled to any relief whatsoever.

SECOND DEFENSE

To the extent that Plaintiff seeks any liability prior to 2 years before the filing of this Complaint or the opt-in consent, the statute of limitations has run and bars such claims.

THIRD DEFENSE

Defendants' acts or omissions were taken in good faith and with reasonable grounds to believe that such acts or omissions were in compliance with the FLSA.

FOURTH DEFENSE

Plaintiff fails to state a claim upon which relief may be granted.

Respectfully submitted this 14th day of January, 2014.

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/s/ J. Larry Stine

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Attorneys for Defendants

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<i>Defendants.</i>)	
_____)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing **ANSWER** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

W. Anthony Collins, Jr.
Smith Collins, LLC

This 14th day of January, 2014.

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